

v. Wyeth, No. 5:03-CV-217-C (N.D. Tex. Jan. 27, 2004) (Exhibit F-10); *Hodge v. Wyeth*, No. C-02-271 (S.D. Tex. July 5, 2002) (Exhibit F-11). Wyeth respectfully submits that the substantial majority position is the better reasoned. The minority opinions uniformly ignored the overwhelming publicity associated with the Class notice campaign in the Spring of 2000. The minority also failed to address why it was “impossible or exceedingly difficult” for plaintiffs to have learned of their alleged injuries.

The overwhelming amount of publicity surrounding the diet drugs and heart problems gave Plaintiffs everything they needed to know to discover their alleged injuries. Most significantly, it told them they might be injured and yet not have symptoms. It was precisely *because* diet drug users could not diagnose themselves that numerous different sources — Wyeth, the FDA, HHS, the official Court Notice of the Settlement, the media, and hundreds of attorney advertisements — told diet drug users to get echocardiograms because they might have asymptomatic heart injuries. Yet Plaintiffs ignored these warnings, and waited up to five years or more after the last date they could have taken the diet drugs to investigate their claims. Under these circumstances, Plaintiffs’ claims against the Physician Defendants are time-barred as a matter of law.

- c. Plaintiffs have presented no competent evidence that it was impossible or exceedingly difficult to discover their injuries.

The specific and detailed publicity Wyeth has submitted obliged Plaintiffs to respond with specific, concrete evidence of their own. Plaintiffs, however, have submitted *no* evidence at all to rebut Wyeth’s publicity evidence. None of Plaintiffs have established a “reasonable” possibility that their claims against the defendant doctors can survive the doctors’ statute of limitations defense.

3. *Fraudulent concealment does not save Plaintiffs' claims.*

Plaintiffs rely upon the doctrine of fraudulent concealment in their petitions. Fraudulent concealment is not a cause of action *per se*, but is an equitable doctrine that, in the proper case, estops a defendant from relying on the statute of limitations. *Bordelon v. Peck*, 661 S.W.2d 907, 908 (Tex. 1983). “[P]roof of fraudulent concealment requires more than evidence that the physician failed to use ordinary care; it also requires evidence that the defendant *actually knew the Plaintiffs were in fact wronged, and concealed that fact* to deceive the Plaintiffs.” *Earle v. Ratliff*, 998 S.W.2d 882, 888 (Tex. 1999) (emphasis added).

Plaintiffs do not allege in their petitions that the Physician Defendants knew Plaintiffs had been injured. They merely allege that the defendants “fraudulently concealed their wrongful conduct from Plaintiffs,” “had actual knowledge of the defective and dangerous nature of the subject diet drugs,” and “continued to perpetrate their wrongful conduct with the intent and fixed purpose of concealing their wrongs from Plaintiffs and the public at large.” See Plaintiffs’ Master Petitions in Tarrant and Harris Counties, attached as Exhibits E and H to this Memorandum. As the Court held in *Ross* (PTO 3207), such an allegation falls short of pleading that “the defendant had actual knowledge that he . . . caused the injury.” *Ross* at 9.

This Court also rejected similar fraudulent concealment claims in *Stanger* (PTO 2876), in which it found that the plaintiffs’ claims against the physician defendants were barred by Utah’s four-year statute of repose. *Id.* at 9. While the plaintiffs conceded that they ingested diet drugs more than four years prior to filing suit, they contended that the doctrine of fraudulent concealment tolled the statute of repose. This Court rejected this

contention, finding that the “Plaintiffs are simply averring negligence against these defendants.” *Id.* at 11. This Court explained: “Plaintiffs have nowhere properly alleged that the in-state physicians or pharmacy at any time ‘ha[ve] affirmatively acted to fraudulently conceal the[ir] alleged misconduct.’” *Id.* (citation omitted). While the Court’s decision there was based upon Utah law, the reasoning is applicable here.

The United States District Court for the Northern District of Texas in *Cantrell* rejected a similar attempt to recast a (groundless) claim of medical negligence as a charge of fraudulent concealment:

[Plaintiff], in a creative attempt to save her claim[s] from the statute of limitations, has attempted to burnish those claim[s] with the patina of fraudulent concealment. However, absent a showing that [her doctor] had actual knowledge of — and concealed — an injury, [plaintiff’s] naked claims of medical negligence are plainly insufficient to demonstrate fraudulent concealment. [citation omitted] Nowhere has [plaintiff] set forth factual allegations showing that [her doctor] had a fixed purpose to conceal from [plaintiff] — or acted affirmatively to prevent [plaintiff] from discovering — that she was injured as a result of taking diet drugs. In her amended petition and her memorandum in support of the motion to remand, [plaintiff] simply makes the conclusory allegations that [her doctor] fraudulently concealed both the dangers of Pondimin and Redux and the need for [plaintiff] to undergo an echocardiogram or cardiovascular examinations. She fails, however, to provide any factual basis to support these allegations. Accordingly, the court — after piercing the pleadings to determine the question of fraudulent joinder — concludes that [plaintiff] has failed to carry her burden of showing that [her doctor] actually knew [plaintiff] was injured by the diet drugs in question, or that [her doctor] willfully concealed that fact in order to deceive [plaintiff].

Cantrell, Exhibit F-1 to this Memorandum, at 11. Plaintiffs here likewise allege simple negligence, not fraudulent concealment, on the part of the physicians.

Finally, even when it does apply, fraudulent concealment does not excuse a plaintiff from ignoring information that would put a reasonable person on notice of her injury. *See Santanna Nat. Gas Corp. v. Hamon Operating Co.*, 954 S.W.2d 885, 891

(Tex. App.—Austin 1997, writ denied). Instead, it “merely defers the statute of limitations *until the plaintiff learns or in the exercise of reasonable diligence should have learned* of the facts that give rise to its cause of action.” *Id.* (emphasis added). Plaintiffs knew, or in the exercise of reasonable diligence should have known, of the facts giving rise to their causes of action more than two years before they filed suit in or after May 2003. They unquestionably knew that they had taken diet drugs. And due to the news reports and other public notice of the link between diet drugs and asymptomatic heart valve regurgitation, discussed in the Notices of Removal, Plaintiffs knew or should have known of the need to get echocardiograms more than two years before they filed suit. Had Plaintiffs obtained this simple, non-invasive test, they would have learned of any diet drug related injuries at that time, since, as noted above, this type of injury is not latent and would have been detected. *See French* (PTO 3281), at 12–13; *Ferrell* (PTO 2996), at 7–8.

For all of the reasons stated above, the Physician Defendants are fraudulently joined, and Wyeth therefore requests this Court to dismiss all Plaintiffs’ claims against the Physician Defendants.

C. Plaintiff Thibodeaux’s Claims against the Pharmacy Defendant Are Also Barred as a Matter of Law.

In one of the cases at issue here, *Janis C. Thibodeaux v. Wyeth*, C.A. No. 2:04-CV-20552-HB, identified in Column F of Appendix 1, the Plaintiff named a non-diverse Pharmacy Defendant, Daleo Pharmacy. This defendant has been fraudulently joined.

1. *Plaintiff has pled no actionable facts against the Pharmacy Defendant.*

The fraudulent joinder of the Pharmacy Defendant is established by Plaintiff’s failure to state any actionable facts specific to the pharmacy. Plaintiff identifies this

defendant only in the "Parties" section of the live pleading. This defendant is not mentioned anywhere else in the petition, and the claims in Plaintiff's petition do not specifically refer to the Pharmacy Defendant. A plaintiff's failure to allege actionable facts against a non-diverse defendant demonstrates fraudulent joinder. *Cavallini v. State Farm Mut. Auto Ins. Co.*, 44 F.3d 256, 261 (5th Cir. 1995); *Batoff v. State Farm Ins. Co.*, 977 F.2d 848, 851 (3rd Cir. 1992); *Boyer v. Snap-On Tools Corp.*, 913 F.2d 108, 111 (3rd Cir. 1990); *Abels v. State Farm Fire & Cas. Co.*, 770 F.2d 26, 32 (3rd Cir. 1985).

In *Cavallini*, the Texas plaintiffs sued State Farm, an Illinois corporation, and Larry Cunningham, a State Farm agent residing in Texas. State Farm and Cunningham removed the case to federal court, claiming that Cunningham's joinder was fraudulent. The district court agreed, holding that the state court petition (complaint) "did not allege a cause of action against ... Cunningham." *Cavallini*, 44 F.3d at 259. The court of appeals affirmed.

The *Cavallini* court examined the allegations in plaintiffs' petition and held that none of the allegations could support a claim against Cunningham under Texas law. Pertinent to the court's holding was that, although the Cavallinis' claims generically referred to "Defendants," these claims made no mention of Cunningham, nor did they include any factual allegations directed at Cunningham. *Id.* at 260. The district court in *Cavallini* observed the following with respect to plaintiffs-appellants' assertion that they had stated a claim against the individual Texas resident defendant:

Other than listing his name and address for purposes of service, the petition does not specifically mention ... Cunningham at all. The petition does contain a prayer for exemplary damages for "the gross misrepresentations made by the Defendants." *Absent any factual allegations however*, the prayer standing alone cannot support a cause of action against Cunningham.

Cavallini, 44 F.3d at 260 (emphasis added). Additionally, certain factual allegations made clear that the claims were specifically directed toward State Farm, and not towards Cunningham. *Id.* The damages allegations in the petition likewise failed to mention Cunningham, and specifically referred to State Farm. *Id.* at 261.

Griggs v. State Farm Lloyds, et al., 181 F.3d 694 (5th Cir. 1999), is also on all fours with this case. In *Griggs*, a Texas plaintiff sued State Farm Lloyds and Lark Blum, a State Farm agent who resided in Texas. State Farm removed the case, contending that Blum was fraudulently joined. The Fifth Circuit upheld the district court's denial of plaintiff's motion to remand, observing that plaintiff's original and amended petitions "allege no actionable facts specific to Blum." *Id.* at 699. The court rejected plaintiff's contention that Texas law regarding "notice pleading" relieved him of the obligation to state a cause of action against Blum, "We cannot say that Griggs' petition, which mentions Blum once in passing, then fails to state any specific actionable conduct on her part whatsoever, meets even the liberalized requirements that permit notice pleadings." *Id.*

As in *Cavallini* and *Griggs*, Plaintiff's petition in this case "does not contain allegations which could support a claim under Texas law" against the Pharmacy Defendant. *See Cavallini*, 44 F.3d at 260. Other than the language referenced above, *none* of the allegations in Plaintiff's petition even mention this defendant by category, much less by name. Nor does the petition even suggest that the claims are directed at this defendant. To the contrary, Plaintiff's allegations themselves make clear that this defendant is excluded from her claims. Plaintiff simply has not pled any actionable facts against the Pharmacy Defendant, and thus that defendant is fraudulently joined.

2. *Furthermore, Texas law precludes claims against a pharmacy for properly filling a physician's prescription.*

Plaintiff's claims against the Pharmacy Defendant are unsustainable for another reason as well. Texas courts have held that there is no claim against a pharmacy where, as here, the pharmacy has accurately filled a doctor's prescription. *Morgan v. Wal-Mart Stores, Inc.*, 30 S.W.3d 455, 461 (Tex. App.—Austin 2000, pet. denied). Attempts to extend the pharmacy's duty to patients to warn them of potential side effects or risks have been rejected. *Id.* This Court has held that plaintiffs in diet drug cases cannot defeat removal by joining pharmacies. *See Accadia*, PTO 3666, slip op. at 27–29 (construing Texas law); *see also Anderson v. American Home Prods. Corp.*, 220 F. Supp. 2d 414, 423–24 (E.D. Pa. 2002) (applying Mississippi law). Therefore, there is no reasonable basis for a claim against the Pharmacy Defendant, which is fraudulently joined.

3. *Plaintiff's claims against the Pharmacy Defendant are barred by the statute of limitations.*

Even if Plaintiff had pled legally viable claims against the Pharmacy Defendant, those claims would be barred by the applicable statutes of limitations. The statute of limitations for Plaintiff's tort claims against the pharmacy is two years. TEX. CIV. PRAC. & REM. CODE § 16.003(a). The statute of limitations on Plaintiff's breach of warranty claims is four years. TEX. BUS. & COM. CODE ANN. § 2.725(a). However, the limitations period for breach of warranty runs from the date of delivery of the drug to the patients, which was September 1997, at the latest. *Williams v. Upjohn Co.*, 153 F.R.D. 110 (S.D. Tex. 1994). The diet drugs were withdrawn from the market in September 1997, so Plaintiff could not have received the drugs after that date. Even if Plaintiff were entitled to invoke the discovery rule, the extensive publicity detailed above starting in September

of 1997 put all former diet drug users on notice of their potential claims. *See, e.g., Gentry v. Wyeth*, No. 5:04-CV-99 (E.D. Tex. June 14, 2004), attached to this Memorandum as Exhibit F-12. Thus, the limitations period began to run, at the latest, in September 1997 and expired, at the latest, in 1999. Because Plaintiff waited until May 2003 to file suit, her claims against the Pharmacy Defendant are barred.

D. Corporate Employees Clayton Lacy and Frank Bedrick, as well as the Sales Representative Defendants, Are Fraudulently Joined.

In their original petitions, all Plaintiffs named two Texas Wyeth managerial employees, Clayton Lacy and Frank Bedrick, as defendants. On June 23, 2003, Wyeth removed the first of the hundreds of cases Plaintiffs' counsel filed in Texas state courts in May 2003. *See* Docket Report in *Adele Giordano v. Wyeth, et al.*, No. 03-CV-2211 (S.D. Tex., Houston Division), attached as Exhibit C to this Memorandum. Three days later, Plaintiffs' counsel began amending their petitions in state court to join multiple sales representative defendants in an attempt to defeat diversity jurisdiction. *See* Plaintiff's First Amended Petition in *Patty Lynette Cooley v. Wyeth, et al.*, Cause No. 2003-28779, in the 190th Judicial District Court of Harris County, Texas, attached as Exhibit D to this Memorandum.

As a result, Plaintiffs have named sales representative defendants in 267 of the cases under consideration, which cases are identified in Column H of Appendix 1 to this Memorandum. At least eight of the sales representatives named were not even Texas residents, as Plaintiffs had alleged.²⁵ Three other named defendants, Michelle (Herren)

²⁵ Specifically, Kelly Lindsey, Jeanine Kovalcik Stubbs, Karen Cox, Heidi Rolufs, Eric Lofstrom, David Anderson, Lesley Sanders, and Patrick Tyrrell were all citizens of other states when Plaintiffs filed their lawsuits. *See* Declarations attached to this Memorandum as Exhibits I-34, I-58, I-59, I-16, I-35 I-3, I-54, & I-52.

Pavelec, James Edmondson, and Steve Sneider, were never employed by Wyeth, but worked for Interneuron, which is not even a party to these cases.²⁶ See Declarations of Michelle Pavelec and James Edmondson, attached as Exhibits I-21 and I-45 to this Memorandum. One of the sales representatives named, Virginia Ellis, had been deceased for years at the time Plaintiffs filed their lawsuits. See Certificate of Debra Owens, attached as Exhibit I-22 to this Memorandum. In any event, all of these corporate employees and sales representatives are fraudulently joined.

1. *The corporate employees and sales representatives have already been dismissed in twelve of the cases under consideration.*

In twelve of the cases at issue here, the transferor court dismissed Lacy, Bedrick, and/or sales representatives on its own motion. Specifically, the following individual defendants have already been dismissed in the following cases:

- a. *Elizabeth Ann Auippa v. Wyeth*, C.A. No. 4:03-CV-02622 (S.D. Tex.) (Lacy, Bedrick, Lorch, & Falke dism'd on 7/28/03);
- b. *Patricia Baldwin v. Wyeth*, C.A. No. 4:03-CV-02609 (S.D. Tex.) (Lacy & Bedrick dism'd on 7/22/03);
- c. *Frank Bertucci v. Wyeth*, C.A. No. 4:03-CV-02638 (S.D. Tex.) (Lacy, Bedrick, Pullin, & Cox dism'd on 7/22/03);

²⁶ Michelle (Herren) Pavelec, James Edmondson, and Steve Sneider worked for an unaffiliated corporation, Interneuron. See, e.g., Declarations of Michelle Pavelec and James Edmondson, attached as Exhibits I-21 and I-45 to this Memorandum. Any claims against them are barred by a statute of limitations. Again, Pondimin and Redux were withdrawn from the market in September 1997. Furthermore, as explained in Wyeth's Notices of Removal, the widespread publicity about the subject diet drugs in Plaintiffs' geographic area put Plaintiffs on notice that they needed to investigate any potential claims in 1997. Even the types of claims Plaintiffs generally allege against "Defendants" are barred within two- and four-year limitation periods. Wyeth pointed out in its Notices of Removal that these individuals were not Wyeth detailers. Plaintiffs have simply ignored this fact.

- d. *Sara Elmore v. Wyeth*, C.A. No. 4:03-CV-02615 (S.D. Tex.) (Lacy, Bedrick, Honeycutt, & Howard dismiss'd on 7/22/03);
 - e. *Karen Farve v. Wyeth*, C.A. No. 4:03-CV-02657 (S.D. Tex.) (Lacy, Bedrick, Fitzgerald, & Clark dismiss'd on 7/29/03);
 - f. *Harold Green v. Wyeth*, C.A. No. 4:03-CV-02205 (S.D. Tex.) (Lacy & Bedrick dismiss'd on 7/1/03);
 - g. *King Lane v. Wyeth*, C.A. No. 4:03-CV-02408 (S.D. Tex.) (Lacy & Bedrick dismiss'd on 7/15/03);
 - h. *Louis Morella v. Wyeth*, C.A. No. 4:03-CV-02262 (S.D. Tex.) (Lacy & Bedrick dismiss'd on 7/1/03);
 - i. *Susan R. Riley v. Wyeth*, C.A. No. 4:03-CV-02468 (S.D. Tex.) (Lacy & Bedrick dismiss'd on 7/22/03);
 - j. *Angelina Rivera v. Wyeth*, C.A. No. 4:03-CV-02460 (S.D. Tex.) (Lacy & Bedrick dismiss'd on 7/30/03);
 - k. *Phyllis N. Samz v. Wyeth*, C.A. No. 4:03-CV-02658 (S.D. Tex.) (Lacy, Bedrick, Lindsay & Howard dismiss'd on 7/29/03); and
 - l. *Sandra Tryon v. Wyeth*, C.A. No. 4:03-CV-02517 (S.D. Tex.) (Lacy & Bedrick dismiss'd on 7/22/03).
2. *Plaintiffs have failed to state any actionable facts with respect to the corporate employee or sales representative defendants.*

Plaintiffs mention Lacy, Bedrick, and the sales representatives in only one place in their petitions. Specifically, in the "Statement of the Parties," Plaintiffs plead each individual is a "sales representative and/or sales manager for the above manufacturer Defendants in the State of Texas, and at all relevant times was distributing pharmaceuticals in Texas." See Plaintiffs' Amended Petition in *Cooley*, attached as Exhibit D to this Memorandum. These individuals are not mentioned anywhere else in the pleadings. Plaintiffs' claims do not identify these individuals by name.

Indeed, Plaintiffs' allegations themselves make clear that these individual defendants are excluded from Plaintiffs' claims. For example, Plaintiffs' strict liability claim alleges in pertinent part:

All Defendants were engaged in the business of manufacturing, designing, testing, marketing, distributing, selling and/or prescribing the subject diet drugs and/or their incorporated component ingredients.

* * *

The subject diet drugs were defective and unreasonably dangerous when they entered into the stream of commerce and when received by Plaintiff in the following respects:

- a. The subject diet drugs contained one or more manufacturing defect;
- b. The subject diet drugs were not reasonably safe due to their defective design in that the foreseeable risks of harm posed by each diet drug outweighed the drug's foreseeable therapeutic benefits; or
- c. The subject diet drugs are not reasonably safe due to defective warnings and instructions in that reasonable instructions or warnings were not provided to healthcare providers prescribing these diet drugs.

See Plaintiffs' Seventh Amended Master Petition, attached as Exhibit D to this Memorandum. Similarly, in the negligence claim, Plaintiffs allege that the defendants "owed Plaintiff a duty of reasonable care in all aspects concerning the manufacturing, designing, testing, marketing, distributing, selling and/or prescribing of the subject diet drugs and incorporated component ingredients made the subject of this case." *See id.*

Moreover, the breach of duty to warn claim alleges in pertinent part:

Each Defendant was involved in the manufacturing, designing, testing, marketing, distributing, selling and/or prescribing of Plaintiff's subject diet drugs. Accordingly, each Defendant was involved in creating the risks associated with the subject diet drugs.

Each Defendant knew, should have known, or should have discovered risks associated with the subject diet drugs that were the result of their design, testing and/or manufacturing.

See id. Clearly, these allegations are directed at a drug manufacturer defendant, not an individual defendant.

Again, a plaintiff's failure to allege actionable facts against the non-diverse defendant demonstrates that the defendant is fraudulently joined. *Cavallini*, 44 F.3d at 261; *see also Batoff*, 977 F.2d at 851; *Boyer*, 913 F.2d at 111–12; *Anderson* (PTO 2567), at 18; *Wakefield* (PTO 2687), at 11; *Weaver* (PTO 2946), at 17–18.

As Wyeth pointed out in its Notice of Removal, these cases are virtually identical to *Cavallini*. The district court in *Cavallini* observed the following with respect to the petition's allegations:

Other than listing his name and address for purposes of service, the petition does not specifically mention . . . Cunningham at all. The petition does contain a prayer for exemplary damages for “the gross misrepresentations made by the Defendants.” *Absent any factual allegations however*, the prayer standing alone cannot support a cause of action against Cunningham.

Cavallini, 44 F.3d at 260 (emphasis added). The *Cavallini* Court acknowledged that the plaintiffs had interspersed general claims against “Defendants” in their petition, but held that this did not suffice to state a claim against the individual defendant Cunningham, repeatedly noting that the petition “makes no mention of Cunningham.” *Cavallini*, 44 F.3d at 260–62; *see also Griggs v. State Farm Lloyds*, 181 F.3d 694, 699 (5th Cir. 1999) (“We cannot say that Griggs’ petition, which mentions [the non-diverse defendant] once in passing, then fails to state any specific actionable conduct on his part whatsoever, meets even the liberalized requirements [under Texas law] that permit notice pleading.”); *cf. Hodgin v. Agents of Montgomery County*, 619 F. Supp. 1550, 1554 (E.D. Pa. 1985)

(dismissing defendant against whom no facts were asserted); *Bodor v. Horsham Clinic, Inc.*, 1995 WL 472111, at *4 n.11 (E.D. Pa. Aug. 8, 1995) (“because the complaint’s factual allegations do not refer to [defendant] by name, the complaint could be dismissed against [him] on this ground alone). The Court may disregard the corporate employees and sales representatives in its jurisdictional analysis for this reason alone.

3. *Plaintiffs have not stated colorable claims against the corporate employee and sales representative defendants.*

Even if Plaintiffs’ general allegations against “Defendants” somehow implicated Lacy, Bedrick, and the sales representatives, Plaintiffs still have pled a colorable claim against these individuals. Implicit in all the allegations would be the assumption that they owe an individual duty of care — independent of any duty owed by Wyeth — to physicians, diet-drug users, or the public at large. But this Court and Texas federal courts repeatedly have recognized in diet-drug cases that sales representatives owe no such duty. *See, e.g., Accadia*, (PTO 3666), at 30–33 (Jun. 29, 2004) (agreeing with majority of federal district courts in Texas that “there is ‘no reasonable basis in fact or colorable ground’ supporting plaintiffs’ claims against the sales representative defendants.”).

One Texas federal court after another has concluded that sales representatives cannot possibly owe an individual, personal duty of care, independent of any duty owed by Wyeth, to diet-drug users, their prescribing doctors, or the public at large. The Honorable Sam Sparks, District Judge for the Western District of Texas, Austin Division, has summarized the fundamental flaw with the typical diet-drug plaintiff’s claim:

Essentially, [Plaintiff] alleges the detailers passed information supplied by Wyeth to the physicians and they knew or should have known this information contained misstatements about the safety of the diet drug. This does not constitute an allegation of *knowing* participation in a misrepresentation on the part of a corporate agent (the detailer).

Budd v. Wyeth, No. A-03-CA-465-SS, slip op. at 6 (W.D. Tex. Sept. 17, 2003) (Exhibit J-1) (emphasis in original). Judge Sparks has reached the identical conclusion in six other cases. *See Dionne v. Wyeth*, No. A-03-CA-467-SS (W.D. Tex. Sept. 17, 2003) (Exhibit J-2); *Leonard v. Wyeth*, No. A-03-CA-463-SS (W.D. Tex. Sept. 17, 2003) (Exhibit J-3); *Palomino v. Wyeth*, No. A-03-CA-464-SS (W.D. Tex. Sept. 17, 2003) (Exhibit J-4); *Stoker v. Wyeth*, No. A-03-CA-462-SS (W.D. Tex. Sept. 17, 2003) (Exhibit J-5); *Swinehart v. Wyeth*, No. A-03-CA-461 SS (W.D. Tex. Sept. 17, 2003) (Exhibit J-6); *Turner v. Wyeth*, No. A-03-CA-466-SS (W.D. Tex. Sept. 17, 2003) (Exhibit J-7).

The Honorable Sam Cummings, District Judge for the Northern District of Texas, Abilene Division, agreed that there could be no claim against drug sales representatives for negligent misrepresentation without an allegation of “knowing” misrepresentation:

Plaintiff fails to provide this Court with any case law that indicates to this Court that the sales representatives would have had an independent duty of care to her for any negligent misrepresentations they may have made. . . . The settled law in Texas regarding misrepresentation is that a “corporate agent can be held liable for fraudulent statements and knowing misrepresentations even when they are made in the capacity of a representative of the corporation,” but that the corporate agent must “knowingly participate[]” in the misrepresentation.

Lewis v. Wyeth, No. 1:03-CV-166-C, slip op. at 7 (N.D. Tex. Feb. 17, 2004)²⁷ (Exhibit J-8) (quoting *Kingston v. Helm*, 82 S.W.3d 755, 759 (Tex. App.—Corpus Christi 2002, pet. denied)); *see also Poole v. Wyeth*, No. 5:03-CV-017-C (N.D. Tex. Feb. 26, 2004) (Exhibit J-14) (same).

²⁷ The court in *Lewis* handed down its opinion on the same date that the JPML transfer order was filed with the clerk of this Court. Although the *Lewis* Court accordingly may have lacked jurisdiction at the time it issued its opinion, the opinion, at a minimum, still carries persuasive weight.

The overwhelming majority of other Texas federal courts have concurred that sales representatives owed no individual duty of care apart from the drug manufacturer. *See Northcutt v. Wyeth*, No. H-03-2665, slip op. at 5 (S.D. Tex. Aug. 13, 2003) (Exhibit J-9) (Rosenthal, J.) (“There is no allegation nor presentation of any facts that would create an independent duty owing from these individual employees to Northcutt, apart from the duty owing by Wyeth, that was violated.”); *Nightingale v. Wyeth*, No. W-03-CA-203 (W.D. Tex. Sept. 5, 2003) (Exhibit J-10) (Smith, Jr., J.) (“Plaintiffs have identified no duty under Texas law which either Defendant owed to Plaintiffs or violated.”); *Ferguson v. Wyeth*, No. 4:03-CV-5141 (S.D. Tex. Jan. 30, 2004) (Exhibit J-12) (Hoyt, J.) (“The Court is of the opinion that these sales representatives cannot warrant or make representations about pharmaceutical products that would override the disclosure that is required of and made by the manufacturer of the drugs.”). As of May 4, 2004, Texas federal courts had either denied remand or dismissed sales representatives outright in 183 diet-drug cases. *See* Exhibit K to this Memorandum (listing remand denials) and Exhibit L to this Memorandum (listing dismissals). By contrast, only one Texas federal court has remanded a case on account of a non-diverse sales representative — and that court has done so just once. *Doran v. Wyeth*, No. 2:03-CV-196-J (N.D. Tex. Dec. 11, 2003) (Exhibit J-13).

The majority position is staked on settled principles of Texas law. Under Texas law, the duty to warn of product dangers is owed by the product’s “seller.” *See, e.g., Jaimes v. Fiesta Mart, Inc.*, 21 S.W.3d 301, 305 (Tex. App.—Houston [1st Dist.] 1999, pet. denied). A “seller” is one who engages in the business of distributing or otherwise placing the product into the stream of commerce. TEX. CIV. PRAC. & REM. CODE §

82.001(3) (defining “seller”). More generally, a defendant owes no duty of care with respect to a product that the defendant did not design, manufacture or sell. *Firestone Steel Products Co. v. Barajas*, 927 S.W.2d 608, 613 (Tex. 1996) (“Firestone conclusively showed it did not design, manufacture or sell the wheel in question. Accordingly, Firestone owed no duty to the [plaintiffs].”). Plaintiffs cannot seriously contend that Lacy, Bedrick, or any of the sales representatives designed, manufactured, sold, or supplied any of the specific drugs ingested by Plaintiffs. Declarations from the sales representatives confirm that they did not. (These declarations are collected at Exhibit I to this Memorandum.) The affidavits of Lacy and Bedrick, attached to Wyeth’s Notices of Removal, establish that at no time relevant to these lawsuits have they “ever marketed, distributed, sold, or promoted the diet drugs Pondimin or Redux to health care professionals, pharmacies, or anyone else.” See Exhibits B & C to Wyeth’s Notices of Removal, incorporated in Exhibits B-1, B-2, and B-3 to this Memorandum. These defendants owed no independent duty of care as a matter of law.

Nor could they, as a practical matter, possibly be held individually responsible for the information they pass along to physicians. Sales representatives are educated about the drugs they detail *by Wyeth*. *E.g.*, Declaration of Robert Falke ¶ 2 (Exhibit I-23 to this Memorandum). They have no involvement in the development or preparation of package inserts for any drugs, and no control over the content or other written warnings. *E.g.*, *id.* ¶ 4. They generally lack a basis for evaluating independently the information Wyeth supplies them because they usually do not have any formal education in medicine or pharmacology, except what they receive from Wyeth. *E.g.*, *id.* ¶ 3. It must be Wyeth’s

responsibility, in short, to see that its sales representatives are armed with accurate information.

The only evidence concerning the sales representatives before the Court establishes that these individuals had no knowledge of any association between diet drugs and valvular heart disease before such an allegation was first publicized. *E.g., id.* Other evidence also demonstrates that the information Wyeth provided to its sales representatives, prior to July 1997, did not contain any information about the possible risk of valvular heart disease. On July 8, 1997, the United States Food and Drug Administration published a medical advisory about said risk, based on an announcement that day by the Mayo Clinic that it had discovered valvular heart disease in patients who had used these drugs. *See* FDA July 8, 1997 Public Health Advisory (Exhibit N to this Memorandum). That same day, a Wyeth official in Pennsylvania sent a voicemail to the sales representatives generally, followed by an e-mail, advising them of the Mayo Clinic announcement and of the fact that “Wyeth-Ayerst” has reviewed the case reports from the Mayo Clinic and is concerned about the potential association of a rare and unusual valvular disorder” with the diet drugs. July 8, 1997 Email from LaRoux Jooste (Exhibit O to this Memorandum). Wyeth further sent prescribing physicians a letter on July 24, 1997 advising them that it was adding a warning to the product label about that risk. *See* July 24, 1997 Letter from Wyeth to Physicians (Exhibit P to this Memorandum). Also on July 24, 1997, an official of Wyeth in Pennsylvania distributed another “bulletin broadcast” voicemail to its sales representatives, advising them “about some developments related to the recent Mayo Clinic observations,” which were referred to as “the initial reports of cardiac valvular disorders” described by that Clinic. The message

also referred to the Mayo Clinic's observations as a "new development." See July 24, 1997 Email from Bruce Reid and Voicemail Script (Exhibit Q to this Memorandum). These documents further support the sales representatives' declarations that Wyeth had never previously informed them of any risk of valvular heart disease associated with these drugs, as they were first told of it in July 1997.

Employees do not assume individual, personal liability in the absence of an independent duty merely by participating in their employer's alleged failure to provide adequate information about its products. "[I]ndividual liability arises only when the officer or agent owes an independent duty of reasonable care to the injured party apart from the employer's duty," *Leitch v. Hornsby*, 935 S.W.2d 114, 117 (Tex. 1996), or when the agent *knowingly* participates in fraudulent or tortious conduct. See *Kingston v. Helm*, 82 S.W.3d 755, 759 (Tex. App.—Corpus Christi 2002, pet. denied); *Budd, supra*, Exhibit J-1 to this Memorandum, at 6; *Lewis, supra*, Exhibit J-8 to this Memorandum, at 7. Plaintiffs' form complaint does not allege that the sales representatives "knowingly" participated in any fraud or other tortious activity.

In summary, Plaintiffs have no reasonable possibility of establishing a claim against Clayton Lacy, Frank Bedrick, or any of the sales representative defendants. They are all fraudulently joined and Wyeth therefore requests this Court to dismiss Lacy, Bedrick, and the sales representatives from all of these cases.

E. The Phentermine Defendants Are Fraudulently Joined.

Finally, this Court's rulings have made it clear that the phentermine defendants are fraudulently joined. *E.g., Dianne Smith* (PTO 3247), at 6 ("This court has found, after evidentiary hearings on the matter, that there is no support for the position that phentermine contributes to injuries allegedly caused by fen-phen."). Indeed, this Court

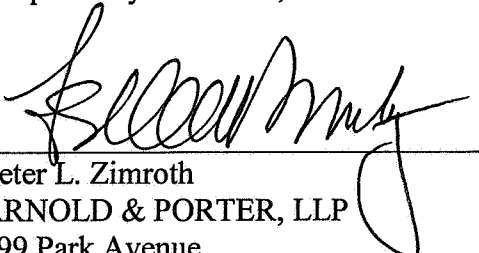
has already ruled that Plaintiffs' counsel's tactics of naming phentermine manufacturer defendants "can only be characterized as a sham" targeted at depriving Wyeth of a federal forum. *See Anderson*, PTO 2567 at 20. Because the phentermine defendants are fraudulently joined, Wyeth requests this Court to dismiss them from these cases.

VI.

CONCLUSION

Plaintiffs have failed to demonstrate that there is any reasonable basis in law or in fact for any of their claims against both the non-diverse and the phentermine defendants. Accordingly, Wyeth requests this Court to dismiss all defendants other than Wyeth.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Wyeth's Consolidated Motion to Dismiss Fraudulently Joined Defendants, along with its Appendix, in the above captioned actions were served this 22nd day of Nov., 2004 by U.S. first-class mail, postage prepaid, upon all counsel of record in the action, who are listed below. Copies of the Exhibits to this Motion are voluminous, are being provided to counsel for Plaintiffs and Gate Pharmaceuticals, and will be provided to other counsel upon request.

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Leslie A. Benitez

Date: November 22, 2004

APPENDIX 1 - Wyeth's Consolidated Motion to Dismiss Fraudulently Joined Defendants

Plaintiff	MDL Cause No.	Publicity	Physician Defendants	Pharmacy Defendants	Phent Ds	Detailer Ds in addition to Lacy & Bedrick
A	B	C	E	F	G	H
Acquistapace, Jacqueline	2:04-CV-20254-HB	Houston	None	None	Yes	None
Alcaraz, Gwendolyn Gay	2:03-CV-20443-HB	San Antonio	Elena Villavicencio-Suarez	None	Yes	None
Alexander, Dorothy	2:04-CV-20479-HB	Fort Worth	Michael Chekassky	None	Yes	Sneider, Edmondson, Bodenhamer
Allen, Anna M.	2:04-CV-20447-HB	Fort Worth	Patrick Joseph Kirlin	None	Yes	Sneider, Strazzulla Roheim, & Boudreaux
Allen, Carolyn	2:04-CV-21060-HB	Houston	Davill Armstrong	None	Yes	Duilban, Adams, Virgilio Cray
Allison, Dorothy	2:04-CV-21146-HB	Houston	Dorothy F. Merritt	None	Yes	Honeycutt, Lindsey, Howard
Allosco, Ann	2:04-CV-21063-HB	Houston	None	None	Yes	None
Anderson, Maria	2:04-CV-21385-HB	Houston	Dale L. Messer	None	None	Honeycutt, Lindsey, Howard
Anderson, Pamela	2:04-CV-20882-HB	Fort Worth	Daniel L. Rader	None	Yes	Brink
Arb, Beverly	2:03-CV-20456-HB	San Antonio	None	None	None	None
Argumaniz, Elias	2:04-CV-20444-HB	Fort Worth	Arnold J. Morris	None	None	Strazzulla Roheim, Boudreaux
Arnett, Linda	2:04-CV-20448-HB	Fort Worth	Newton Galueha	None	Yes	Maddox
Aulppa, Elizabeth Ann	2:04-CV-21122-HB	Houston	Steven Spencer	None	Yes	(Lorch & Falke dism'd sua sponte)
Backes, Naomi	2:04-CV-20477-HB	Fort Worth	Howard James Huntzinger & Kendra J. Belfi	None	Yes	Gravley, Medley, Bodenhamer, McDougal Gosson, Kovalick Stubbs
Bailey, Linda S.	2:03-CV-20478-HB	San Antonio	Ernesto Cantu	None	Yes	None
Baker, Mitzi	2:04-CV-20875-HB	Fort Worth	None	None	Yes	None
Baldwin, Patricia L.	2:04-CV-21062-HB	Houston	Patrick McNameara	None	None	Lorch, Mandola
Ball, Suzanne Janice	2:04-CV-21115-HB	Houston	Victor Knopp	None	Yes	Falke, Lorch
Bankston, Stephanie	2:04-CV-21068-HB	Houston	Arthur T. Hadley, III	None	None	Falke, Herren Pavelec, Lorch
Banuelos, Cynthia	2:04-CV-21148-HB	Houston	Teresa Becker	None	Yes	Adams, Honeycutt, Lindsey, (Howard named only in style of petition)
Barker, Missy	2:04-CV-20889-HB	Fort Worth	Otto Frederick Puempel	None	Yes	Boudreaux, Edmondson, Strazzulla Roheim
Barnett, Cheryl Yvonne	2:03-CV-20460-HB	San Antonio	None	None	None	None

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Plaintiff	MDL Cause No.	Publicity	Physician Defendants	Pharmacy Defendants	Phent Ds	Detailer Ds in addition to Lacy & Bedrick
A	B	C	E	F	G	H
Barnett, Magna	2:04-CV-20904-HB	Fort Worth	Michael Iversen	None	Yes	Sneider, Maddox
Bartlett, Barbara S.	2:04-CV-21139-HB	Houston	Rafael Pardo	None	None	Booth, Fitzgerald, Clark
Bass, Delores	2:04-CV-20273-HB	San Antonio	William D. Clark	None	None	None
Bell, Cynthia	2:04-CV-20255-HB	Houston	Alfred Ricks	None	Yes	Fitzgerald
Bell, Gwendolyn	2:04-CV-20446-HB	Fort Worth	Michael Cherkassky & Arthur L. Raines	None	Yes	Sneider, Gravley, Edmondson, Kovalick Stubbs, Bodenhamer
Bell, Linda S.	2:04-CV-23163-HB	Houston	None	None	Yes	None
Bennett, Darla Jo	2:03-CV-20523-HB	San Antonio	None	None	Yes	None
Benton, Dee Lynn	2:04-CV-20445-HB	Fort Worth	Darryl Nix	None	Yes	Boudreaux, Strazzulla Rohelm
Bertucci, Frank N.	2:04-CV-21118-HB	Houston	John P. Ott, Jr.	None	Yes	(Pullin & Cox dism'd sua sponte)
Bishop, Patricia Sue	2:03-CV-20462-HB	San Antonio	Theodore F. Botkin	None	Yes	None
Blair, Ida Jan	2:04-CV-20906-HB	Fort Worth	Gary Albertson	None	Yes	Peets, Williford
Boone, Mary Jolene	2:04-CV-21117-HB	Houston	Jerome L. Armbruster	None	Yes	Honeycutt, Howard
Boren, Betty	2:04-CV-21140-HB	Houston	Robert J. Griffon	None	Yes	Reeves Snapka, Weinbaum, Rolufs, Abshire, Herren Pavelec, Newhouse, Pascavage Pogue, Spurlock
Box, Kathy	2:04-CV-20443-HB	Fort Worth	Michael Cherkassky	None	Yes	Sneider, Edmondson, Bodenhamer
Brackeen, Dana	2:04-CV-20449-HB	Fort Worth	Samuel L. Gladney	None	Yes	Maddox, Rylee
Bradshaw, Stephanie	2:04-CV-20243-HB	Houston	Harvey Resnick & Kerry D. Vance	None	Yes	Booth, Fitzgerald, Clark
Brantley, Barbara Jean	2:04-CV-21050-HB	Houston	None	None	Yes	None
Bratton, Lana M.	2:04-CV-20905-HB	Fort Worth	Duana A. Selman	None	Yes	Boudreaux, Strazzulla Rohelm
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Breeding, Janet	2:04-CV-20238-HB	Houston	None	None	Yes	None
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Brooks, Susan	2:04-CV-20790-HB	Houston	James Inalcatera, Jr.	None	Yes	Honeycutt, Lindsey, Howard
Brown, Autrey	2:04-CV-20247-HB	Houston	Julius H. Bertheau	None	Yes	Booth, Fitzgerald, Clark
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Brown, Lyle A., III	2:04-CV-20450-HB	Fort Worth	None	None	Yes	None

APPENDIX 1 - Wyeth's Consolidated Motion to Dismiss Fraudulently Joined Defendants

Plaintiff	MDL Cause No.	Publicity	Physician Defendants	Pharmacy Defendants	Phent Ds	Detailer Ds in addition to Lacy & Bedrick
A	B	C	E	F	G	H
Browning, Linda	2:04-CV-21099-HB	Houston	None	None	Yes	Herren Pavelec, Pullin, Mandola
Brownlee, Erlenne	2:04-CV-20838-HB	Fort Worth	Robert Matthew Tafel (also filed mot. to dismiss)	None	Yes	Maddox, Rylee
Bruce, Sherry J.	2:04-CV-20943-HB	Houston	George Murillo	None	Yes	Duilban, Adams, Virgilio Cray
Buchanan, Henry	2:04-CV-20256-HB	Houston	Dale L. Messer	None	None	Honeycutt, Lindsey, Howard
Buchon, Peggy	2:04-CV-20269-HB	Houston	Hector E. Tobon	None	Yes	Fitzgerald
Bugs, Malinda	2:04-CV-20234-HB	Fort Worth	C. Hartman	None	None	None
Bulian, Karen S.	2:04-CV-20940-HB	Houston	Arthur T. Hadley, III	None	Yes	Falke, Herren Pavelec, Lorch
Burda, Ana	2:04-CV-21350-HB	Houston	Jay L. Mont	None	Yes	Herren Pavelec
Burgess, Lindell R.	2:04-CV-20244-HB	Houston	Paula L. Springer	None	Yes	Duilban, Adams, Virgilio Cray, Herren Pavelec, Chiasson, Phillips
Burman, Norma J.	2:03-CV-20470-HB	San Antonio	Homero Rodriguez-Juarez (also filed mot. to dismiss)	None	Yes	None
Burnett, Gloria	2:03-CV-20473-HB	San Antonio	None	None	Yes	None
Burns, Caroline E.	2:04-CV-20840-HB	Fort Worth	None	None	None	None
Burris, Anita D.	2:04-CV-21007-HB	Dallas	None	None	Yes	None
Butler, Helen R.	2:04-CV-21349-HB	Houston	Steven E. Stern	None	Yes	Duilban, Adams, Virgilio Cray, Cervenka
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Caldwell, Debra	2:04-CV-21382-HB	Houston	Lizabeth Riley	None	Yes	Falke, Lorch, Blevins, Ellis, Honeycutt, Lindsey, Howard
Calhoun, Shirley S.	2:04-CV-20925-HB	Houston	James C. Boone	None	None	None
Campbell, Jennifer	2:04-CV-20864-HB	Fort Worth	Leo Allenburg	None	Yes	Maddox
Cannoles, Marlene	2:04-CV-21399-HB	Houston	Brian Robert Tulloch	None	Yes	Weinbaum, Herren Pavelec, Newhouse, Mandola, Hassenboehler Labbe
Cappelletti, Mary Ann	2:04-CV-20274-HB	San Antonio	None	None	Yes	None
Carmona, Carolyn	2:04-CV-20549-HB	Houston	Jay C. Proctor, III	None	Yes	Chiasson, Phillips, Lotstrom, Rajabi
Casselberry, Charlotte	2:04-CV-20933-HB	Houston	Diana Fite	None	Yes	Falke, Lorch, Sanders

APPENDIX 1 - Wyeth's Consolidated Motion to Dismiss Fraudulently Joined Defendants

Plaintiff	MDL Cause No.	Publicity	Physician Defendants	Pharmacy Defendants	Phent Ds	Detailer Ds in addition to Lacy & Bedrick
A	B	C	E	F	G	H
Chapman, Tom	2:04-CV-20948-HB	Houston	Ralph F. Coleman	None	Yes	Harkness Jackson, Pullin, Tyrrell, Cox
Chiarolanza, Barbara	2:04-CV-21075-HB	Houston	None	None	Yes	None
Chilcutt, Dan M.	2:03-CV-20449-HB	San Antonio	Jimmy E. McCoy (also filed mot. to dismiss)	None	Yes	None
Childs, Lacia J.	2:04-CV-21056-HB	Houston	Mangar Alioju	None	None	None
Chirane, Steve	2:04-CV-21143-HB	Houston	Dale L. Messer	None	None	Honeycutt, Lindsey, Howard
Cockroft, Cassandra	2:04-CV-20952-HB	Fort Worth	Elizabeth Rohi-Saunders, Samuel C. Hoover, & Robert Y. Fong	None	Yes	Sneider, Maddox, Gravley, Brink, Mueller
Coffey, Deborah	2:04-CV-20260-HB	Houston	None	None	Yes	None
Coleman, Janice	2:04-CV-20548-HB	Houston	(Jay C. Proctor, III dism'd in PTO 3986)	None	Yes	None
Cook, Jerry Leona	2:04-CV-20239-HB	Houston	Benjamin Weiner (also filed mot. to dismiss)	None	Yes	Booth, Fitzgerald, Clark
Cooke, Ellen E.	2:04-CV-20928-HB	Houston	Jay L. Mont	None	Yes	Herren Pavelac
Corbin, Beverly S.	2:04-CV-20926-HB	Houston	Charles W. Allen	None	Yes	Fitzgerald, Clark
Cotton, Yvette M.	2:04-CV-21371-HB	Houston	Bao Bui (John Purcell Reeves dism'd in PTO 3866)	None	Yes	Honeycutt, Lindsey, Howard
Couturie, Kathleen P.	2:04-CV-20800-HB	Houston	Dorothy F. Merritt	None	Yes	Honeycutt, Lindsey, Howard
Craft, Diane L.	2:04-CV-20865-HB	Fort Worth	Merle R. Pounds	None	Yes	Maddox
Crozier, Nora J.	2:04-CV-20871-HB	Fort Worth	Walter Geyer	None	Yes	Maddox
Culp, Rhonda	2:04-CV-26214-HB	Fort Worth	None	None	None	None
Dalton, Carmen	2:04-CV-20939-HB	Houston	Philip T. Eichelberger, Jr.	None	Yes	Fitzgerald, Clark
Daniels, Rebecca	2:04-CV-21373-HB	Houston	Carl Jacob Fuchs	None	Yes	Honeycutt, Lindsey, Howard
Darthard, Cassandra Lene	2:04-CV-20268-HB	Houston	Sudarsana K. Reddy	None	Yes	Fitzgerald
Deasy, Patricia	2:04-CV-20814-HB	Houston	Arthur T. Hadley, III	None	None	Herren Pavelac, Lorch
Deberry-Polk, Toni	2:04-CV-20451-HB	Fort Worth	Pedro M. Jelinick, Pedro M. Arrazola, & Michael T. Jelineck	None	Yes	Garza, Cordova
Dedushaj, Sandy	2:04-CV-20826-HB	Fort Worth	(Robert DeMartini dism'd on 9/24/04 in PTO 3981)	None	Yes	Maddox, Rylee
Dervin, Melony	2:03-CV-20480-HB	San Antonio	Homero Rodriguez-Juarez (filed mot. to dismiss as well)	None	Yes	None
Detling, Doris	2:03-CV-20453-HB	San Antonio	Robert E. Galloway	None	Yes	None
Devasier, Suman	2:04-CV-20798-HB	Houston	Carl Jacob Fuchs	None	Yes	Honeycutt, Lindsey, Howard

APPENDIX 1 - Wyeth's Consolidated Motion to Dismiss Fraudulently Joined Defendants

Plaintiff	MDL Cause No.	Publicity	Physician Defendants	Pharmacy Defendants	Phent Ds	Detailer Ds in addition to Lacy & Bedrick
A	B	C	E	F	G	H
Dewood, Dana	2:04-CV-20854-HB	Fort Worth	Sally A. Hallgren	None	Yes	Gravley, Medley, Kovalcik Stubbs
Diesl, Kelli	2:04-CV-20253-HB	Houston	David R. Ambuster	None	Yes	Honeycutt, Lindsey, Howard
Divin, Gigi	2:03-CV-20406-HB	Houston	Walter N. Thomas (also filed mot. to dismiss)	None	Yes	None
Dotson, Reverender	2:04-CV-21147-HB	Houston	Dorothy F. Merritt	None	Yes	Honeycutt, Lindsey, Howard
Doyle, Linda	2:03-CV-20608-HB	San Antonio	Debra Williams (also filed mot. to dismiss)	None	Yes	None
Droege, Carolyn	2:04-CV-20815-HB	Houston	Terrance S. Holmes	None	None	Newhouse, Mandola, Hassenboehler Labbe
Dryer, Joseph O.	2:04-CV-21110-HB	Houston	Najmuddin Karimjee	None	Yes	Duilban, Adams, Virgilio Cray
Dunn, Sandra L.	2:04-CV-20478-HB	Fort Worth	Robert C. Kent	None	Yes	Boudreaux, Strazulla Roheim
Dunn, Zola May	2:03-CV-20605-HB	San Antonio	Marlene Sanchez	None	Yes	None
Earthly, Marilyn J.	2:04-CV-21102-HB	Houston	Jay L. Mont	None	Yes	Herran Pavelec
Eckler, Patricia A.	2:04-CV-21137-HB	Houston	Wanda P. Spuhler	None	Yes	Lindsey, Howard
Elmore, Sara	2:04-CV-21127-HB	Houston	Howard Dillard, Jr.	None	Yes	(Honeycutt, Howard dism'd sua sponte)
Encina, Oralia	2:03-CV-20448-HB	San Antonio	Ronald Wong	None	Yes	None
Evans, Marci	2:04-CV-20845-HB	Fort Worth	Michael Cherkasky	None	Yes	Sneider, Edmondson, Bodenhamer
Farve, Karen	2:04-CV-21104-HB	Houston	Philip T. Eichelberger, Jr.	None	Yes	(Fitzgerald, Clark dism'd sua sponte)
Feistel, Peggy Ann	2:03-CV-20447-HB	San Antonio	Hillary G. Miller	None	Yes	None
Fields, Dona	2:04-CV-21105-HB	Houston	A.L. McLeod	None	Yes	Rolufs, Abshire
Fitzgerald, Susan	2:04-CV-20918-HB	Fort Worth	Thomas C. Miller	None	Yes	Boudreaux, Strazulla Roheim
Francis, Jeffrey C.	2:04-CV-20481-HB	Fort Worth	Ashok A. Chitale	None	Yes	Stewart, Anderson
Franklin, Jean	2:04-CV-20804-HB	Houston	Louis S. Riley, Jr.	None	Yes	Blevins, Ellis, Honeycutt, Lindsey, Howard
Franklin, Marilyn	2:04-CV-21009-HB	Dallas	Fran Rose	None	Yes	Brink, Mueller
Fregia, Clinton F.	2:04-CV-21388-HB	Houston	Oscar Cortez Oandasan	None	None	Booth, Fitzgerald, Clark

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Plaintiff	MDL Cause No.	Publicity	Physician Defendants	Pharmacy Defendants	Phent Ds	Detailer Ds in addition to Lacy & Bedrick
A	B	C	E	F	G	H
Frye, Lanelle	2:03-CV-20472-HB	San Antonio	Salvador P. Baylan (also filed mot. to dismiss)	None	Yes	None
Garcia, Caire	2:04-CV-21346-HB	Houston	Larry A. Richardson	None	Yes	Duilban
Garcia, Stella	2:03-CV-20475-HB	San Antonio	Raymond H. Hernandez, Jr. (also filed mot. to dismiss)	None	Yes	None
Garcia-Sinson, Carolyn	2:04-CV-20931-HB	Houston	Oscar Cortez Oandasan	None	Yes	Fitzgerald, Clark
Garrison, Mary D.	2:04-CV-20805-HB	Houston	Sudarsana K. Reddy	None	Yes	Fitzgerald
Germany, Lynne	2:04-CV-20775-HB	Houston	None	None	None	None
Gibson, Susett Norvella	2:04-CV-21149-HB	Houston	Lynn Johnson	None	Yes	Falke, Herren Pavelec, Lorch, Lindsey, Howard
Gifford, Suzanne S.	2:04-CV-20861-HB	Fort Worth	Joseph Zadeh	None	Yes	Gravley, Medley
Gilley, Glen Ray	2:03-CV-20595-HB	Fort Worth	Walter Geyer	None	Yes	Gravley, Medley, Kovalcik Stubbs
Glaude, Linda M.	2:04-CV-20819-HB	Fort Worth	None	None	Yes	None
Gonzales, Yolanda B.	2:04-CV-21343-HB	Houston	Paula L. Springer	None	Yes	Duilban, Adams, Virgilio Cray, Herren Pavelec, Chiasson, Phillips
Gotez, Elizabeth	2:04-CV-20859-HB	Fort Worth	Don Warren	None	Yes	Maddox, Rylee
Graham, Debbie	2:04-CV-20562-HB	Dallas	Donald W. Chester	None	Yes	Christensen
Gray, Ramona	2:04-CV-20910-HB	Fort Worth	Randall Perkins	None	Yes	Maddox, Rylee, Edmondson
Greco, John	2:04-CV-20911-HB	Fort Worth	Robert A. Strzinek	None	Yes	Maddox
Green, Harold L.	2:03-CV-20410-HB	Houston	Cora Jennis Tucker	None	Yes	None
Green, Lupe	2:04-CV-26215-HB	Fort Worth	None	None	Yes	None
Guerrero, Rosario	2:03-CV-20452-HB	San Antonio	Jay L. Mont (also filed mot. to dismiss)	None	Yes	None
Gulley, Joyce	2:03-CV-20606-HB	San Antonio	Vijay Koli	None	None	None
Gutierrez, Phyllis L.	2:03-CV-20450-HB	San Antonio	Michael Heistand	None	Yes	None
Hafez, Cheryl	2:04-CV-20869-HB	Fort Worth	Inayat I. Lalani	None	None	Bodenhamer, McDougal Gossom, Sage Berndt
Hammers, Joni	2:04-CV-20937-HB	Houston	Royce L. Sedotal	None	Yes	Falke, Lorch
Harris, Ann	2:04-CV-21064-HB	Houston	Jay L. Mont, Kouji Takase	None	Yes	None
Harris, Phyllis L.	2:04-CV-21390-HB	Houston	Benjamin Weiner	None	None	Booth, Fitzgerald, Clark
Harvey, Danna	2:04-CV-20835-HB	Fort Worth	Michael Cherkasky	None	Yes	Sneider, Edmondson, Bodenhamer
Harvie, Eileen	2:03-CV-20522-HB	San Antonio	Homero Rodriguez-Juarez (filed mot. to dismiss as well)	None	Yes	None

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Plaintiff	MDL Cause No.	Publicity	Physician Defendants	Pharmacy Defendants	Phent Ds	Detailer Ds in addition to Lacy & Bedrick
A	B	C	E	F	G	H
Hawkins, Barbara	2:04-CV-20792-HB	Houston	Richard Zimmerman	None	Yes	Newhouse, Mandola, Hassenboehler Labbe
Hayes, Julie	2:04-CV-20822-HB	Fort Worth	Arlett Pharo, William H. Obenour, Jr.	None	Yes	Falke, Harkness Jackson, Pullin, Newhouse, Mandola, Cox, Hassenboehler Labbe
Head, Victor P.	2:04-CV-20275-HB	Houston	Michael C. Scally	None	Yes	Falke, Herren Pavelec
Heidemann, Carrie	2:04-CV-21053-HB	Houston	Jay L. Mont	None	Yes	None
Hencke, Amanda	2:04-CV-20919-HB	Fort Worth	Duana A. Selman	None	Yes	Boudreaux, Strazzulla Roheim
Henley, Ida Rose	2:04-CV-20877-HB	Fort Worth	James Merrill	None	Yes	Maddox, Rylee
Henry, Korena Janice	2:03-CV-20529-HB	San Antonio	Michael Heistand	None	Yes	None
Hernandez, Mary Lou	2:03-CV-20530-HB	San Antonio	Robert Hilliard (also filed mot. to dismiss)	None	Yes	None
Hernandez, Ruben	2:04-CV-21133-HB	Houston	Oscar Cortez Oandasan	None	Yes	Booth, Fitzgerald, Clark
Herring, Audra L.	2:04-CV-20891-HB	Fort Worth	Samuel L. Gladney	None	Yes	Maddox, Rylee
Hinojosa, Diana	2:03-CV-20464-HB	San Antonio	None	None	Yes	None
Hinojosa, Dolores V.	2:03-CV-20512-HB	San Antonio	Homerio Rodriguez-Juarez (filed mot. to dismiss as well)	None	None	None
Hinojosa, Freddy	2:03-CV-20442-HB	San Antonio	Ernesto Cantu	None	Yes	None
Hitt, M. Diane	2:04-CV-20820-HB	Fort Worth	Bryant A. Manning (also filed mot. to dismiss)	None	Yes	Boudreaux, Strazzulla Roheim
Hodges, Georganne	2:04-CV-21144-HB	Houston	Leo J. Borrell	None	Yes	Falke, Herren Pavelec, Lorch
Holle, Shirley Kay	2:04-CV-21051-HB	Houston	David W. Spinks	None	Yes	None
Horne, Sandra	2:04-CV-20808-HB	Houston	John S. Stafford	None	Yes	Honeycutt, Lindsey, Howard
Horton, Vicki	2:04-CV-20862-HB	Fort Worth	Otto Frederick Puempe, Fred V. Colby	None	Yes	Boudreaux, Strazzulla Roheim
Houston, Laura Jean	2:04-CV-20407-HB	Houston	Jerome Borochoff	None	None	Falke, Lorch
Howard, Patsy R.	2:04-CV-20262-HB	Houston	Oscar Cortez Oandasan	None	Yes	Booth, Fitzgerald, Clark
Howell, Sally A.	2:03-CV-20455-HB	San Antonio	None	None	None	None
Hueneberg, Peggy	2:04-CV-20924-HB	Houston	David G. Carpenter	None	Yes	Abshire
Hunt, Paula J.	2:03-CV-20401-HB	Houston	(William H. Couch dism'd on 8/13/04 in PTO 3857)	None	Yes	Adams, Virgilio Cray

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Plaintiff	MDL Cause No.	Publicity	Physician Defendants	Pharmacy Defendants	Phent Ds	Detailer Ds in addition to Lacy & Bedrick
A	B	C	E	F	G	H
Hurt, Nancy	2:03-CV-20477-HB	San Antonio	None	None	None	None
Hutchens, Mary	2:04-CV-20827-HB	Fort Worth	Linus Miller	None	Yes	Crum, Menzies
Hutchinson, Rosie L.	2:04-CV-20873-HB	Fort Worth	Michael Cherkassky	None	Yes	Sneider, Edmondson, Bodenhamer
Hult, Sigrid E.	2:03-CV-20409-HB	Houston	Kenneth Landgraf	None	Yes	Stewart
Iannacone, Gail	2:03-CV-20414-HB	Houston	Diana File	None	None	Falke, Lorch
Ingram, Phyllis	2:04-CV-20868-HB	Fort Worth	Michael Cherkassky	None	Yes	Sneider, Edmondson, Bodenhamer
Isbell, Earleen	2:04-CV-20898-HB	Fort Worth	Don Warren, Keith Harbour	None	Yes	Maddox, Rylee, Gravley
Ishikawa, Tira	2:04-CV-20921-HB	Houston	None	None	Yes	None
Ivy, Judy	2:03-CV-20511-HB	San Antonio	Linda Welch (also filed mot. to dismiss)	None	Yes	None
Jackson, Carol	2:03-CV-20404-HB	Houston	Julio Arauz	None	None	None
Jackson, Frances T.	2:04-CV-21049-HB	Dallas	Kenneth C. Killen	None	None	Dill, Mailoy, Urschler
Jackson, Terri	2:04-CV-20886-HB	Fort Worth	None	None	Yes	None
Jenkins, Brenda B.	2:04-CV-20821-HB	Fort Worth	Otto Frederick Puempel	None	Yes	Boudreaux, Edmondson, Strazzulla Roheim
Jensen, Bobbie	2:04-CV-20604-HB	Dallas	Robert Y. Fong	None	Yes	Sneider, Brink, Mueller
Jenkins, Dorothy	2:04-CV-20250-HB	Houston	None	None	None	None
Johnson, Alice	2:04-CV-20916-HB	Fort Worth	Bryant A. Manning	None	Yes	Boudreaux, Strazzulla Roheim
Johnson, Carmen R.	2:04-CV-20908-HB	Fort Worth	Samuel C. Hoover	None	Yes	Sneider, Maddox
Johnson, Carol Lynn B.	2:03-CV-20457-HB	San Antonio	Frank M. Chalaire	None	Yes	None
Johnson, Lynda	2:04-CV-20895-HB	Fort Worth	Michael Iversen	None	Yes	Boudreaux
Johnson, Renna	2:04-CV-20917-HB	Fort Worth	None	None	Yes	None
Johnson, Robert	2:04-CV-21379-HB	Houston	Bruce E. Barnum	None	Yes	None
Johnson, Sara A.	2:03-CV-20463-HB	San Antonio	Eugenio Chinea	None	None	None
Johnson, Vickie L.	2:04-CV-20813-HB	Houston	David R. Armbruster	None	Yes	Honeycutt, Lindsey, Howard
Joiner, Jane	2:03-CV-20598-HB	Fort Worth	Harvey Johnson, Alvin Lostetter	None	Yes	Sneider, Christensen, Anthony
Jones, Lance	2:04-CV-20896-HB	Fort Worth	John D. Gabriel	None	Yes	Maddox, Rylee
Jones, Mary Ann	2:04-CV-21378-HB	Houston	William E. Powell, II	None	Yes	Blevins, Ellis, Honeycutt, Lindsey, Howard
Jordan, Judy Ann	2:04-CV-21131-HB	Houston	Terri L. Eckert (also filed mot. to dismiss)	None	Yes	None

APPENDIX 1 - Wyeth's Consolidated Motion to Dismiss Fraudulently Joined Defendants

Plaintiff	MDL Cause No.	Publicity	Physician Defendants	Pharmacy Defendants	Phent Ds	Detailer Ds in addition to Lacy & Bedrick
A	B	C	E	F	G	H
Kay, Debra	2:04-CV-20870-HB	Fort Worth	Sheila K. Horsley, David Hankins, Craig Whitcomb	None	Yes	Boudreaux, Strazzulla Roheim, Marshall
Keeling, Sheryl D.	2:03-CV-20399-HB	Houston	Jay L. Mont (also filed mot. to dismiss)	None	Yes	None
Kihar, Julius	2:04-CV-20927-HB	Houston	Joseph Segel	None	None	Falke, Lorch
King, Robbie D.	2:04-CV-20745-HB	Houston	Douglas Wheeler	None	None	Blevins
King, Sheryl	2:04-CV-21130-HB	Houston	Anthony O'Dwyer	None	Yes	Honeycutt, Lindsey, Howard
Knolley, Karen B.	2:04-CV-20354-HB	Houston	Wesley Palmer	None	None	Chiasson, Phillips, Lotstrom, Rajabi
Knowlton, Marilyn	2:04-CV-20894-HB	Fort Worth	None	None	Yes	None
Knox, John	2:04-CV-20884-HB	Fort Worth	Karl Erwin, Aziz A. Klavon	None	Yes	Brink, Mueller
Lagway, Eddie R.	2:04-CV-20624-HB	Houston	Larry A. Richardson	None	Yes	Dulban, Herren Pavelec
Lane, Cheryl	2:04-CV-21132-HB	Houston	None	None	None	Honeycutt, Lindsey, Howard
Lane, King	2:03-CV-20397-HB	Houston	(Larry A. Richardson dismi'd on 7/28/04 in PTO 3857)	None	None	Dulban, Herren Pavelec
Law, Katherine	2:04-CV-20266-HB	Houston	Anthony Scott Rogers	None	Yes	Booth, Fitzgerald, Clark
Lennon, Evelyn L.	2:04-CV-21136-HB	Houston	Irvin F. Sabrula, Jr.	None	Yes	Booth, Fitzgerald, Clark
Leslie, Rozena	2:04-CV-20901-HB	Fort Worth	Somari Griffin	None	Yes	Mackie
Lessing, Joyce A.	2:03-CV-20520-HB	San Antonio	Belinda Padilla (also filed mot. to dismiss)	None	Yes	None
Lexie, Annie	2:04-CV-20318-HB	Houston	Harvey H. Randolph, Jr.	None	Yes	Chiasson, Phillips, Lotstrom, Rajabi
Linderman, Gayle	2:04-CV-21389-HB	Houston	Dale L. Messer	None	None	Honeycutt, Lindsey, Howard
Lindsey, Linda G.	2:04-CV-21374-HB	Houston	John S. Stafford	None	Yes	Honeycutt, Lindsey, Howard
Long, Halma	2:04-CV-20379-HB	Houston	Wesley Palmer	None	Yes	Chiasson, Phillips, Lotstrom, Rajabi
Love, Joyce	2:04-CV-20912-HB	Fort Worth	Brian J. Caplan (also filed mot. to dismiss)	None	Yes	Boudreaux, Strazzulla Roheim
Lovelady, Joyce	2:04-CV-20842-HB	Fort Worth	Michael Seibel	None	Yes	Sneider, Gravley, Medley, Kovalick Stubbs, Bodenhamer
Magnuson, Doris	2:04-CV-20860-HB	Fort Worth	Robert C. Kent	None	Yes	Boudreaux, Strazzulla Roheim
Manning, Barbara	2:04-CV-20249-HB	Houston	None	None	Yes	None
Martin, Dianne	2:04-CV-20510-HB	Houston	Darrell A. Griffin	None	Yes	None

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Plaintiff	MDL Cause No.	Publicity	Physician Defendants	Pharmacy Defendants	Phent Ds	Detailer Ds in addition to Lacy & Bedrick
A	B	C	E	F	G	H
Mathews, Bruce	2:04-CV-20246-HB	Houston	None	None	Yes	Booth, Fitzgerald, Clark
Mathews, Glynis	2:04-CV-20263-HB	Houston	Oscar Cortez Oandasan	None	Yes	Booth, Fitzgerald, Clark
Mayfield, Betty	2:04-CV-20824-HB	Fort Worth	Michael Cherkassky	None	Yes	Sneider, Edmondson, Bodenhamer
Mayhew, Maria	2:03-CV-20607-HB	San Antonio	Larry Baros	None	Yes	None
McCabe, Katherine	2:04-CV-20879-HB	Fort Worth	Walter Geyer	None	Yes	Gravley, Medley, Kovalick Stubbs
McClelland, Wanda	2:04-CV-20378-HB	Houston	Sei Chang Oh	None	Yes	Chiasson, Phillips, Lofstrom, Rajabi
McClendon, Lenetta I.	2:03-CV-20597-HB	Fort Worth	Billy Houston Puryear	None	Yes	Boudreaux, Strazzulla Rohelm
McDaniel, Dale	2:03-CV-20471-HB	San Antonio	None	None	Yes	None
McDuff, Carolyn	2:04-CV-20486-HB	Dallas	Carlton K. Clarke	None	Yes	Decapua, Menzies
McGee, Cynthia	2:04-CV-20872-HB	Fort Worth	Patricia Kaczmarek	None	Yes	McDougal Gosson, Sage Berndt
McGrew, Ronda	2:04-CV-20839-HB	Fort Worth	None	None	None	None
McInnis, Melissa	2:04-CV-20841-HB	Fort Worth	James Watts	None	Yes	Bairrington, Devos
McKinney, Debra	2:04-CV-21391-HB	Houston	Cornelia Agent	None	None	Honeycutt, Lindsey, Howard
McMurrin, Jeannine	2:04-CV-20240-HB	Houston	Carl Jacob Fuchs	None	Yes	Honeycutt, Lindsey, Howard
Menchaca-Votou, Dora	2:03-CV-20438-HB	San Antonio	Arturo Marroquin	None	Yes	None
Menier-Webb, Lynda	2:04-CV-20317-HB	Houston	Harvey H. Randolph, Jr.	None	Yes	Blevins, Chiasson, Phillips, Lofstrom, Rajabi
Metoyer-Rogue, Clair	2:04-CV-20290-HB	Houston	Jay L. Mont	None	Yes	Herran Pavalec
Meyer, Elizabeth J.	2:04-CV-20791-HB	Houston	William E. Powell, II	None	Yes	Blevins, Ellis, Honeycutt, Lindsey, Howard
Mickel, Gary	2:04-CV-20909-HB	Fort Worth	Walter Geyer	None	Yes	Gravley, Medley, Kovalick Stubbs
Mickish, Margaret W.	2:03-CV-20445-HB	San Antonio	None	None	None	None
Miculka, Sandra	2:04-CV-21383-HB	Houston	Cornelia Agent	None	Yes	Honeycutt, Lindsey, Howard
Miles, Karen	2:04-CV-20485-HB	Dallas	Andrew Burke	None	Yes	Dill, Malloy, Urschler, Hammonds

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Plaintiff	MDL Cause No.	Publicity	Physician Defendants	Pharmacy Defendants	Phent Ds	Detailer Ds in addition to Lacy & Bedrick
A	B	C	E	F	G	H
Minton, K. Joyce	2:04-CV-20811-HB	Houston	None	None	Yes	Mandola, Hassenboehler Labbe
Mitchell, Betty	2:03-CV-20454-HB	San Antonio	None	None	Yes	None
Molter, Eleanor J.	2:03-CV-20510-HB	San Antonio	None	None	Yes	None
Monkres, Clint	2:04-CV-20853-HB	Fort Worth	Shing Pang	None	None	Sneider, Strazzulla Roheim
Moon-Willy, Patricia	2:04-CV-20563-HB	Dallas	William R. Boone (also filed mot. to dismiss)	None	Yes	None
Morella, Louis	2:03-CV-20350-HB	Houston	Jerome Borochoff	None	Yes	None
Morgan, Kay	2:04-CV-21616-HB	Houston	Pat Prapan	None	Yes	McWhorter
Morgan, Shelly	2:04-CV-20482-HB	Fort Worth	Otto Frederick Puempel	None	Yes	Boudreaux, Edmondson, Strazzulla Roheim
Morris, Patricia A.	2:03-CV-20474-HB	San Antonio	Vijay Koli (also filed mot. to dismiss)	None	Yes	None
Munoz, Joe A.	2:04-CV-20794-HB	Houston	Lewis R. Gottlieb	None	Yes	Duilban, Lammons
Muse, Patsy W.	2:04-CV-20902-HB	Fort Worth	Arnold J. Morris	None	Yes	Boudreaux, Strazzulla Roheim
Neathery, Bonnie	2:04-CV-20874-HB	Fort Worth	Kathryn Pfifer	None	Yes	Maddox, Rylee
Nelson, Robin	2:04-CV-20858-HB	Fort Worth	Tamara Kay Handby	None	Yes	Gravley, Medley, Kovalcik Stubbs
Nicholls, Tanzee Lee	2:04-CV-20235-HB	Houston	None	None	Yes	None
Niederhofer, Marjie	2:03-CV-20391-HB	Houston	Carlos J. Gonzalez	None	Yes	None
Nieto, Stella	2:04-CV-21594-HB	Houston	Louis Bond Hughes	None	Yes	Fitzgerald
Noe, Dorothy	2:04-CV-20881-HB	Fort Worth	David Petty	None	Yes	Bodenhamer, McDougal Goosom
Nolte, Patricia	2:04-CV-21372-HB	Houston	Carl Jacob Fuchs	None	Yes	Honeycutt, Lindsey, Howard
Oldham, Kathryn S.	2:04-CV-20852-HB	Fort Worth	Michael Cherkassky	None	None	Sneider, Edmondson, Bodenhamer
Orem, Barbara	2:04-CV-20241-HB	Houston	None	None	Yes	None
Ornelas, Joyce L.	2:03-CV-20508-HB	San Antonio	Bruce Addison	None	None	None
Pardue, Virgie R.	2:04-CV-20863-HB	Fort Worth	William Howard	None	None	Poynter, Kasten
Pate, Lucy G.	2:04-CV-20258-HB	Houston	Ranga R. Kattegumula	None	Yes	Booth, Fitzgerald, Clark
Pawlik, Beverly L.	2:03-CV-20461-HB	San Antonio	None	None	None	None
Payne-Taylor, Stephanie	2:04-CV-20878-HB	Fort Worth	Samuel L. Gladney, Keith Harbour	None	Yes	Maddox, Riley, Gravley

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Plaintiff	MDL Cause No.	Publicity	Physician Defendants	Pharmacy Defendants	Phent Ds	Detailer Ds in addition to Lacy & Bedrick
A	B	C	E	F	G	H
Pena, Diane S.	2:03-CV-20476-HB	San Antonio	Joe D. Hymer	None	Yes	None
Peoples, Constance	2:04-CV-20888-HB	Fort Worth	Sheila K. Horsley	None	Yes	Boudreaux, Strazzulla Roheim
Peters, Deborah S.	2:03-CV-20468-HB	San Antonio	Michael Heistand	None	Yes	None
Philen, Melba	2:04-CV-20380-HB	Houston	Wesley Palmer	None	Yes	Chiasson, Phillips, Lotstrom, Rajabi
Philpot, Patricia	2:04-CV-20849-HB	Fort Worth	(John R. Woodward dism'd by stipulation on 5/14/04)	None	Yes	Christensen
Pickett, Virginia M.	2:04-CV-20270-HB	Houston	Sudarsana K. Reddy	None	Yes	Fitzgerald
Pinkley, Mary H.	2:04-CV-21593-HB	Houston	Juan Cavazos	None	Yes	Duliban
Pipes, Katie	2:04-CV-20257-HB	Houston	Oscar Cortez Oandasan	None	Yes	Fitzgerald, Clark
Pixley, Pamela	2:04-CV-21145-HB	Houston	Lena R. Bruce	None	Yes	Honeycutt, Lindsey, Howard
Pool, Kathryn E.	2:04-CV-20915-HB	Fort Worth	Randall Perkins	None	Yes	Maddox, Rylee, Edmondson
Pothier, Constance E.	2:04-CV-20801-HB	Houston	Sheldon Rubenfeld	None	Yes	Herren Pavelec, Harkness Jackson, Pullin, Mandola, Hassenboehler Labbe
Prendergast, Mary Lou	2:03-CV-20458-HB	San Antonio	Frank Saucedá	None	Yes	None
Pritchett, Linda L.	2:04-CV-20880-HB	Fort Worth	Kathryn Pifer	None	Yes	Maddox, Rylee
Proctor, Thomas	2:04-CV-21074-HB	Houston	Scott Bischoff	None	None	Mandola
Ramos, Rachel	2:04-CV-20844-HB	Fort Worth	Michael Cherkassky	None	Yes	Sneider, Edmondson, Bodenhamer
Randall, Brenda	2:04-CV-21138-HB	Houston	Sudarsana K. Reddy	None	Yes	Fitzgerald
Randle, Delores	2:04-CV-20807-HB	Houston	Helmutha Ravi Iyer	None	Yes	Honeycutt, Lindsey, Howard
Reeves, Kristy	2:04-CV-20312-HB	Houston	Wesley Palmer	None	Yes	Chiasson, Phillips, Lotstrom, Rajabi
Rhodes, Evelynna	2:04-CV-20315-HB	Houston	None	None	None	Blevins, Chiasson, Phillips
Rhodes, Sylvia	2:04-CV-20311-HB	Houston	Wesley Palmer	None	Yes	Chiasson, Phillips, Lotstrom, Rajabi
Richard, Jeanette	2:04-CV-20316-HB	Houston	Harvey H. Randolph, Jr.	None	Yes	Blevins, Chiasson, Phillips, Lotstrom, Rajabi
Richardson, Paulette	2:04-CV-20834-HB	Fort Worth	Audrey Jones	None	Yes	Bodenhamer
Rigby, Sharon	2:04-CV-20803-HB	Houston	John S. Stafford	None	Yes	Honeycutt, Lindsey, Howard
Riley, Marsha	2:04-CV-20843-HB	Fort Worth	Bennett T. Gardier	None	Yes	Sneider

APPENDIX 1 - Wyeth's Consolidated Motion to Dismiss Fraudulently Joined Defendants

Plaintiff	MDL Cause No.	Publicity	Physician Defendants	Pharmacy Defendants	Phent Ds	Detailer Ds in addition to Lacy & Bedrick
A	B	C	E	F	G	H
Riley, Susan R.	2:04-CV-20938-HB	Houston	Stephen D. Fillman	None	Yes	Duilban, Adams, Virgilio Cray
Riojas, Sylvia	2:04-CV-20903-HB	Fort Worth	Dennis L. Lehman	None	Yes	Gravley, Kovalcik Stubbs
Rivera, Angelina	2:04-CV-20932-HB	Houston	Cora Jennis Tucker	None	Yes	None
Rivera, Evelyn	2:04-CV-20252-HB	Houston	Ronald Pucillo	None	Yes	Herren Pavelec, Harkness Jackson, Pullin, Cox
Robberson, Annette	2:04-CV-20893-HB	Fort Worth	Edward Guinn (also filed mot. to dismiss)	None	Yes	Boudreaux, Strazzulla Roheim
Robinson, Ellen J.	2:04-CV-20802-HB	Houston	Dorothy F. Merritt	None	Yes	Duilban, Honeycutt, Lammons
Rockwell, Edna	2:04-CV-20828-HB	Fort Worth	Michael Cherkasky	None	Yes	Sneider, Edmondson, Bodenhamer
Rodriguez, Margaret	2:03-CV-20439-HB	San Antonio	Daniel Martinez	None	Yes	None
Rodriguez, Maria	2:04-CV-20251-HB	Houston	Julius H. Bertheau	None	None	Fitzgerald, Clark
Rogers, Beverly A.	2:04-CV-20809-HB	Houston	Dorothy F. Merritt	None	Yes	Honeycutt, Lindsey, Howard
Rogers, Margaret	2:04-CV-21392-HB	Houston	Jerome L. Armbruster	None	Yes	Honeycutt, Lindsey, Howard
Rogers, Nancy Kay	2:04-CV-20890-HB	Fort Worth	Mary F. Stone	None	Yes	Bodenhamer
Rollings, Deanna	2:03-CV-20467-HB	San Antonio	Homero Rodriguez-Juarez (filed mot. to dismiss as well)	None	Yes	None
Romanowski, Arlene	2:04-CV-20455-HB	Fort Worth	Julius H. Bertheau	None	Yes	Booth, Fitzgerald, Clark
Romero, Gloria V.	2:04-CV-20530-HB	Dallas	George B. Clark	None	Yes	Virgilio Cray, Kasten, Hart
Rosener, Lana G.	2:04-CV-21065-HB	Houston	A.L. McLeod	None	None	Roufs, Abshtre
Russell, Erma D.	2:04-CV-21058-HB	Houston	Michael C. Scally	None	Yes	None
Rutland, Debra	2:03-CV-20444-HB	San Antonio	None	None	Yes	None
Salazar, Gloria	2:04-CV-20313-HB	Houston	Jay C. Proctor, III (also filed mot. to dismiss)	None	Yes	Chiasson, Phillips, Lotstrom, Rajabi
Sampley, Gail	2:04-CV-20355-HB	Houston	Jay C. Proctor, III (also filed mot. to dismiss)	None	None	Chiasson, Phillips, Lotstrom, Rajabi
Samz, Phyllis N.	2:04-CV-21341-HB	Houston	Hal Browning Boone, Jr.	None	Yes	(Lindsey & Howard dism'd sua sponte)
Sarpy, Donna	2:04-CV-20797-HB	Houston	Dorothy F. Merritt	None	Yes	Honeycutt, Lindsey, Howard
Schatz, Cynthia	2:03-CV-20469-HB	Houston	None	None	Yes	None
Schleuse, Damon	2:04-CV-20887-HB	Fort Worth	None	None	Yes	None
Seifert, Janice A.	2:04-CV-20914-HB	Fort Worth	None	None	None	None

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A	B	C	E	F	G	H
Shaw, Darlene	2:04-CV-20829-HB	Fort Worth	Billy Houston Puryear	None	Yes	Boudreaux, Strazzulla Rohelm
Shears, Alberta	2:04-CV-20900-HB	Fort Worth	Peter J. Damico (also filed mot. to dismiss)	None	Yes	Bodenhamer, McDougal Gossom, Sage Berndt
Simpson, Wanda S.	2:04-CV-20452-HB	Fort Worth	Norman Ingebrigtsen	None	Yes	Maddox, Rylee
Sims, Dana	2:04-CV-20920-HB	Houston	William H. Couch	None	Yes	Duilbar, Adams, Virgilio Cray
Smith, Denetra L.	2:04-CV-21150-HB	Houston	Carl Jacob Fuchs	None	None	Honeycutt, Lindsey, Howard
Smith, Lela	2:04-CV-21128-HB	Houston	Lina T. Bautista	None	Yes	Booth, Fitzgerald, Clark
Smith, Rudolph	2:03-CV-20440-HB	San Antonio	Manuel Quinones (also filed mot. to dismiss)	None	Yes	None
Soler, Ruth	2:04-CV-20810-HB	Houston	William E. Powell, II	None	Yes	Blevins, Ellis, Honeycutt, Lindsey, Howard
Sotello, Wanda	2:03-CV-20465-HB	San Antonio	Belinda Padilla (also filed mot. to dismiss)	None	Yes	None
Spencer, Carolyn A.	2:04-CV-20855-HB	Fort Worth	David Beyers	None	Yes	Gravley
Spikes, Mary L.	2:04-CV-21376-HB	Houston	John D. Dang	None	None	Honeycutt
Spurlock, Bridgette	2:04-CV-20876-HB	Fort Worth	Billy G. Mills	None	Yes	Sneider, Crum, Decapua, Menzies
St. John, Tracy	2:04-CV-20454-HB	Fort Worth	Patrick Joseph Kirlin	None	Yes	Sneider, Boudreaux, Strazzulla Rohelm
Stephens, Barbara Jean	2:04-CV-20846-HB	Fort Worth	Otto Frederick Puempel	None	Yes	None
Stull, Paula R.	2:04-CV-20816-HB	Houston	Lena R. Bruce	None	Yes	Honeycutt, Lindsey, Howard
Talercio, Cheryl K.	2:03-CV-20432-HB	San Antonio	Richard Speedlin	None	Yes	None
Taylor, Betty Jane	2:04-CV-20897-HB	Fort Worth	None	None	Yes	Gravley, Medley
Tetts, Jennifer	2:04-CV-20833-HB	Fort Worth	Eric Concors	None	Yes	Maddox
Thibodeaux, Janis C.	2:04-CV-20552-HB	Houston	Paul A. Schmidt	Yes: Daleo Pharmacy	Yes	Chiasson, Phillips, Lotstrom, Rajabi
Tholen, Kevin D.	2:04-CV-20812-HB	Houston	Xun Zhao	None	None	None
Thompson, Angelita Nava	2:03-CV-20481-HB	San Antonio	Theodore F. Botkin (also filed mot. to dismiss)	None	Yes	None
Thompson, Charlotte	2:04-CV-20453-HB	Fort Worth	Larry G. Padgett, William R. West	None	Yes	Bodenhamer, McDougal Gossom, Sage Berndt
Tipton, Trisha	2:04-CV-20907-HB	Fort Worth	Arthur L. Raines	None	Yes	Sneider, Gravley, Edmondson, Kovalick Stubbs

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A	B	C	E	F	G	H
Titus, Gwen	2:04-CV-20352-HB	Houston	Lewis R. Gottlieb	None	Yes	Duliban, Lammons
Tomlin, Hyrice B.	2:04-CV-20883-HB	Fort Worth	Lorraine Nadine Yeoham (also filed mot. to dismiss)	None	Yes	Bodenhamer, McDougal Gossom, Sage Berndt
Tompkins, Mary	2:04-CV-21069-HB	Houston	None	None	Yes	None
Toney, David	2:04-CV-21142-HB	Houston	Michael C. Scally	None	Yes	Falke, Herren Pavelec
Townley, Debbie K.	2:04-CV-21077-HB	Houston	None	None	None	None
Townsend, Tracy L.	2:03-CV-20441-HB	San Antonio	Michael Dorsa	None	Yes	/None
Treadway, Virginia	2:04-CV-20837-HB	Fort Worth	Randall Perkins	None	Yes	Maddox, Rylee, Edmondson
Trivett, Marti	2:04-CV-20851-HB	Fort Worth	Elizabeth Rohr-Saunders	None	Yes	Rylee, Gravley
Tryon, Sandra	2:04-CV-21079-HB	Houston	Lynn Gibbs	None	Yes	Lorch, Honeycutt
Tuttle, Darleen A.	2:04-CV-20806-HB	Houston	Michael C. Scally	None	Yes	Falke, Herren Pavelec
Vega, LaDonna Richelle	2:04-CV-20836-HB	Fort Worth	Michael Seibel	None	None	Sneider, Gravley, Medley, Kovalick Stubbs, Bodenhamer
Wales, Belinda	2:04-CV-20913-HB	Fort Worth	Hubert Gibson	None	Yes	Boudreaux
Walker, Jonnie	2:04-CV-20857-HB	Fort Worth	None	None	None	None
Wallace, Mary Kay	2:04-CV-20265-HB	Houston	Arthur T. Hadley, III	None	Yes	Falke, Lorch, Herren Pavelec
Walston, Linda	2:03-CV-20459-HB	San Antonio	Douglas C. Smith (also filed mot. to dismiss)	None	Yes	None
Walters, Brenda L.	2:04-CV-20480-HB	Fort Worth	Olin Teague Smyth, Jr. (also filed mot. to dismiss)	None	None	Gravley, Medley, Kovalick Stubbs
Ward, Linda R.	2:04-CV-20847-HB	Fort Worth	Gilbert Ledesma	None	Yes	Boudreaux, Strazzulla Rohelm
Washington, Robyn Y.	2:03-CV-20351-HB	Houston	Stephen D. Fillman (also filed mot. to dismiss)	None	None	None
Watson, Carla J.	2:04-CV-20823-HB	Fort Worth	Samuel C. Hoover	None	Yes	Sneider, Maddox
Watts, Frances	2:04-CV-20264-HB	Houston	Bhuvaneswar R. Chinnappan	None	None	Honeycutt
Weinel, Charissa Jo	2:04-CV-20414-HB	Houston	Jerry W. Loving, Ray Anders Denson	None	None	Reeves Snapka, Weinbaum, Roufs, Abshire, Herren Pavelec, Newhouse
Westerman, Jeannette	2:04-CV-20795-HB	Houston	Dorothy F. Merritt	None	Yes	Honeycutt
White, Lashanta	2:04-CV-20885-HB	Fort Worth	David F. Lee	None	Yes	Boudreaux, Strazzulla Rohelm
White, Sharon	2:04-CV-20831-HB	Fort Worth	H. Thomas Willard	None	Yes	Sneider, Gravley, Medley, Kovalick Stubbs
White-Ward, Debra Kay	2:04-CV-20825-HB	Fort Worth	Gary D. Wolf	None	Yes	Boudreaux, Strazzulla Rohelm

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A	B	C	E	F	G	H
Wilkins, Celestine	2:04-CV-20204-HB	Dallas	None	None	None	Christensen
Wilks, Jan M.	2:04-CV-20796-HB	Houston	Charles H. Hudson, III	None	Yes	Honeycutt
Williams, Denise	2:04-CV-20248-HB	Houston	Michael C. Scally	None	Yes	Falke, Herren Pavelec
Williams, Ernestine	2:04-CV-20830-HB	Fort Worth	Michael P. Seeley	None	None	None
Williams, Reginald R.	2:04-CV-20856-HB	Fort Worth	Russell Wayne Phillips	None	Yes	Maddox, Rylee, Boudreaux
Willis, Jimmie S.	2:04-CV-20353-HB	Houston	Wesley Palmer	None	None	Chlasson, Phillips, Loftstrom, Rajabi
Wood, Dana L.	2:04-CV-20848-HB	Fort Worth	Dennis L. Lehman, Robert Shaw (Dr. Shaw also filed mot. to dismiss)	None	Yes	Gravley, Medley, Kovalick Stubbs
Wood, Dolores L.	2:04-CV-20832-HB	Fort Worth	Howard J. Lang	None	Yes	Maddox
Woods, Bill	2:04-CV-21386-HB	Houston	Wanda P. Spuhler	None	None	Honeycutt, Lindsey, Howard
Woods, Mary K.	2:04-CV-21141-HB	Houston	Wanda P. Spuhler	None	Yes	Honeycutt, Lindsey, Howard
Wreyford, Fay Minnie	2:04-CV-20799-HB	Houston	John S. Stafford	None	Yes	Honeycutt, Lindsey, Howard
Wyrick, Patti	2:03-CV-20528-HB	San Antonio	None	None	Yes	None
Yarbrough, Gayle	2:03-CV-20793-HB	Houston	John S. Stafford	None	Yes	Honeycutt, Lindsey, Howard
Young, Loretta L.	2:03-CV-21610-HB	Houston	Gonzalo Uribe-Botero, Kathryn Cooke	None	None	Harkness Jackson, Pullin, Tyrrell, Cox
Zapalac, Mary	2:03-CV-21134-HB	Houston	Robert E. Ham	None	Yes	Honeycutt, Lindsey, Howard